IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

CRP.No. 2740 of 1999(E)

CC.1829/1973 of TALUK LAND BOARD, CHITTUR

.....

PETITIONER:

K.P.BALAN, S/O.PONNAN,
KUMBALAKOTTIL, ELAVANCHERRY VILLAGE,
CHITTUR TALUK.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

RESPONDENTS:

1. THE TALUK LAND BOARD, CHITTUR.

2. THE TAHSILDAR, CHITTUR.

3. THE STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY, GOVT. SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI THOMAS JOHN AMBOOKEN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP.NO.5678/1999 IN CRP.NO.2740/1999

Dismissed

18/7/2007 Sd/- P.R.RAMAN, JUDGE.

True Copy

P.A. TO JUDGE

P.R.RAMAN J.

C.R.P.No.2740 OF 1999

Dated this the 18th day of July, 2007

O R D E R

Petitioner was a declarant in a ceiling case. Finally an order was passed on 13/3/1981 in C.C.No.1829/73 directing the petitioner herein to surrender an extent of 37.94 acres. Petitioner challenged that order in C.R.P.No.1409/81 before this Court. The same was dismissed on 11/4/1984. Thereafter, he filed C.A. No.3319/1992 before the Apex Court. That was also dismissed on 16/9/1998. These facts are stated in the impugned order which is beyond dispute. Subsequently, third parties preferred claim application under Section 85(8) of the Kerala Land Reforms Act and considering the claim application the present order is passed. If any person is aggrieved by this order, the only persons who could legally challenge the order are the applicants, who preferred the claim under Section 85(8) and not by the petitioner. The case of the petitioner had been dismissed by this Court and confirmed by the Apex Court also. Therefore, there is a concluded judgment between the parties. Hence, whether there is any illegality in allowing the claim only partly at the instance of the third parties

is not a matter which the petitioner could urge successfully in this revision petition.

2. However, it is also found that C.C.No.239/73 was yet another ceiling case wherein one Paru claimed tenancy right over an extent of 13.26 acres. But the Taluk Land Board excluded only 5.24 acres in that proceedings. Claimants, who are the legal representatives of the said Paru, preferred their claim again seeking exclusion of the land and adduced evidence thereon and also produced certain documents. The Taluk Land Board found that an extent of 6.62 acres is liable to be reconveyed to those claimants, after upholding that claim. The declarant was also directed to surrender only an extent of 4.88 acres, which is the balance extent to be surrendered. I do not find any illegality in the order passed by the Taluk Land Board.

3. The learned counsel, however, submitted that he may be given a fresh right to opt the land to be surrendered. He has no case that at any point of time he had exercised an option to surrender the land, which has been rejected. When he had right to opt the land to be surrendered, if he had not exercised such right at the appropriate time as contemplated by law, he cannot after the culmination of the proceedings and thereafter at

the appellate stage and the revisional stage seek a fresh opportunity for the same. There are no grounds also to allow any such option. In such circumstances, there is no reason to accept this contention.

In the result, the C.R.P. fails. Accordingly it is dismissed.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.2740 OF 1999

O R D E R

18th July, 2007